

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROY TINCHER, JR.,

Plaintiff,

vs.

Case No. 15

METROPOLITAN LIFE
INSURANCE COMPANY

Defendant,

_____/

GREG LIEPSHUTZ (P37573)
Attorney for Plaintiff
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PLAINTIFF'S COMPLAINT

NOW COMES Plaintiff, ROY TINCHER, JR., by his attorneys, GREG M. LIEPSHUTZ and LEVINE BENJAMIN, P.C., and for his Complaint against Defendant, METROPOLITAN LIFE INSURANCE COMPANY, states as follows

1. At all times relevant hereto, Plaintiff, ROY TINCHER, JR., is a resident of the City of Ypsilanti, County of Washtenaw and State of Michigan.
2. At all times relevant hereto, Defendant, METROPOLITAN LIFE INSURANCE COMPANY, is a foreign insurance corporation in good standing and continuously conducting business throughout the State of Michigan.

3. At all times relevant hereto, Defendant, METROPOLITAN LIFE INSURANCE COMPANY, was compensated for and provided long-term disability coverage pursuant to the terms of a group employee benefits plan provided for the benefit of Plaintiff, ROY TINCHER, JR., and other employees, by their employer.

4. The long-term disability insurance policy issued by Defendant, METROPOLITAN LIFE INSURANCE COMPANY, is a group employee benefit plan covered by and within the meaning of the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1001 et seq.

5. The terms of said contract of insurance obligated Defendant, METROPOLITAN LIFE INSURANCE COMPANY, to provide Plaintiff, ROY TINCHER, JR., with long-term disability benefits, in the event that Plaintiff was rendered unable to work due to injury, disease or other medical condition.

6. That Plaintiff, ROY TINCHER, JR., suffers from a failed fusion. As a result, Plaintiff's conditions have made it impossible for him to work.

7. Defendant, METROPOLITAN LIFE INSURANCE COMPANY has wrongfully denied Plaintiff disability benefits.

8. Defendant's denial of benefits was arbitrary and capricious and was contrary to medical and other evidence that overwhelmingly supports Plaintiff's claim of total and permanent disability; Defendant's termination of Plaintiff's benefits therefore amounts to a breach of the contract for insurance.

9. Plaintiff, ROY TINCHER, JR., has exhausted all appeals and/or reconsideration processes provided by Defendant; nevertheless, Defendant refuses to resume payment of benefits rightfully due and owing to Plaintiff.

10. Plaintiff, ROY TINCHER, JR., is a person empowered to bring a civil action under 29 U.S.C. § 1132(a)(1)(B) to force the Defendant to comply with the Act and resume payment of long-term disability benefits and term life insurance premiums to Plaintiff.

11. 29 U.S.C. § 1132(a)(1)(B) reads as follows:

(a) Persons Empowered To Bring a Civil Action

A civil action may be brought –

(1) by a participant or beneficiary –

(B) to recover benefits due to him under the terms of the plan, to enforce her rights under the terms of the plan, or to clarify her rights to future benefits under the terms of the plan[.]

12. As a result of Defendant's wrongful termination of disability benefits, Plaintiff, ROY TINCHER, JR., has sustained the following damages, including, but not limited to:

(a) Loss of past, present and future income in the form of wage loss compensation benefits;

WHEREFORE, Plaintiff, ROY TINCHER, JR., prays for Judgment in his favor and against the Defendant, METROPOLITAN LIFE INSURANCE COMPANY, in whatever amount he is found to be entitled, in addition to costs, interest

and attorney fees.

Respectfully submitted,

LEVINE BENJAMIN, P.C.

/s/ Greg M. Liepshutz

Attorney for Plaintiff

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Dated: September 15, 2015